S.B. CIVIL WRIT PETITION NO.1790/2007

Dr. Manmohan Purohit.
vs.
Shyam Sunder and anr.

Date : 8.12.2007

HON'BLE MR. PRAKASH TATIA, J.

Mrs.V Joshi, for the petitioner.
Mr.PC Purohit, for the respondents.

- - - - -

Heard learned counsel for the parties.

The order dated 22.9.2006 is non-speaking order and the trial court rejected the petitioner's application under Order 11 Rules 12 & 14 CPC on the ground that at the stage when the application was submitted (before framing of issue), the document could not have been summoned. The trial court has not considered any of the documents nor has given any reason why the documents could not have been summoned before framing of issue if they could have been summoned after framing of the issues.

The petitioner has submitted application at

the earliest stage to summon the documents which is before framing of the issues and the plaintiff rightly did this so that admission denial can be obtained on the documents if Court reaches to conclusion that documents should be summoned and proper issues can be framed putting burden upon the respective parties after admission denial obtained upon the documents.

In view of the above, the order is a non-speaking order, therefore, on this ground alone the writ petition is allowed. The impugned order dated 22.9.2006 is set aside. The trial court shall consider the application afresh and pass the order in accordance with law.

(PRAKASH TATIA), J.

S.Phophaliya